

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

CHARLES HENDERSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE
)	NO. 4:11-cv-60-HLM
)	
SUN PHARMACEUTICAL,)	
INDUSTRIES, LTD; SUN)	
PHARMA GLOBAL, INC.;)	
CARACO PHARMACEUTICAL)	
LABORATORIES, LTD.; HOSPIRA,)	
INC.; HOSPIRA WORLDWIDE,)	
INC.; UDL LABORATORIES, INC.;)	
MYLAN, INC. F/K/A MYLAN)	
LABORATORIES, INC.; and)	
MYLAN PHARMACEUTICALS,)	
INC.,)	
)	
Defendants.)	

SUN PHARMACEUTICAL INDUSTRIES, LTD.’S MOTION TO DISMISS

Defendant Sun Pharmaceutical Industries, Ltd. (“Sun”) respectfully requests the Court dismiss Plaintiff’s Complaint in its entirety on the basis of the Supreme Court’s recent ruling in *Pliva, Inc. v. Mensing*, 2011 WL 2472790, slip op. (U.S. June 23, 2011) finding failure to warn claims against generic pharmaceutical manufacturers are preempted by federal law . In addition, and pursuant to FED. R. Civ. P. 12(b)(5), Sun respectfully requests the Court dismiss Plaintiff’s Complaint

against Sun in its entirety on the basis of insufficient service of process, as Plaintiff did not properly serve Sun, a foreign corporation. Finally, pursuant to FED. R. CIV. P. 12(b)(6) and this Court's prior ruling in this case, Sun respectfully requests that the Court dismiss Counts II, III, IV, V, VI, and VIII of Plaintiff's Complaint for failure to state a claim upon which relief may be granted because Plaintiff failed to plead the requisite facts necessary to support those claims in accordance with *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

In support of this Motion, Sun relies upon the pleadings of the parties and the Memorandum of Law in Support of Its Motion to Dismiss filed contemporaneously herewith.

WHEREFORE, Sun respectfully requests that this Court grant its Motion to Dismiss and dismiss Plaintiff's Complaint with prejudice.

Submitted this 7th day of July, 2011.

/s/ Lori G. Cohen

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)	
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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2011, a true and correct copy of the foregoing SUN PHARMACEUTICAL INDUSTRIES, LTD.'S MOTION TO DISMISS has been electronically filed with the Clerk of Court using the CM/ECF system, which automatically provides email notification of the filing to the following attorneys of record:

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Ltd.*